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BEFORE THE FLORIDA JUDICIAL QUALIFICATIONS COMMISSION

INQUIRY CONCERNING A JUDGE, NO. 01-244
(Judge Charles W. Cope)

Case No. SC01-2670

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SPECIAL COUNSEL'S RESPONSE TO MOTIONS TO DISMISS

The Special Counsel hereby responds to Respondent's Motion to Dismiss, for Discovery and for Hearing on the Grounds of Selective Prosecution and Vindictive Prosecution and Motion to Dismiss Count III, for Discovery and for Hearing on the Grounds of Selective Prosecution and Vindictive Prosecution (collectively, the "Motions to Dismiss") and states:

1. The myriad scandalous allegations and innuendoes of misconduct and a vast conspiracy against Judge Cope are wholly without any support in fact and do not dignify further comment (unless requested by the Hearing Panel) except to the extent that the allegations, if true, might possibly warrant the drastic relief requested.

2. With regard to such allegations, Judge Cope's unsupported assertions (with no citation to any record evidence) are not sufficiently colorable to warrant discovery, a hearing, or any further consideration by the Hearing Panel. The utter baselessness of the material allegations is demonstrated by the affidavits of John S. Mills, Robert W. Butler, and Thomas C. MacDonald, Jr., attached hereto.

3. The details of the proceedings before the Investigative Panel are confidential pursuant to article V, section 12(a)(4), of the Constitution of the State of Florida.

Therefore, absent an order by the Hearing Panel or Supreme Court of Florida, these details cannot be revealed.

4. In short, there is no colorable basis to support Judge Cope's myriad, unsupported allegations, and discovery on these allegations

² is inappropriate.

WHEREFORE, the Motion to Dismiss, for Discovery and for Hearing on the Grounds of Selective Prosecution and Vindictive Prosecution and Motion to Dismiss Count III, for Discovery and for Hearing on the Grounds of Selective Prosecution and Vindictive Prosecution should be denied.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by facsimile and regular U.S. mail to: **Louis Kwall, Esq.**, Kwall, Showers & Coleman, P.A., 133 N. St. Harrison Ave., Clearwater, Florida 33755; **Robert W. Merkle, Jr., Esq.**, Co-

¹ The affidavits' silence with regard to other allegations in the Motions to Dismiss – such as Judge Cope's characterizations of the evidence and deposition testimony of witnesses in this case – should in no way be construed as an admission that such allegations bear any resemblance to the truth.

Copies of the affidavits of Messrs. MacDonald and Butler are attached. The originals will be filed as soon as possible.

² Presumably, such discovery would require the depositions of every member of the Investigative Panel, the Special Counsel, the General Counsel, the Executive Director, the assistant district attorney in California, the attorneys for Lisa and Nina Jeanes in Maryland, the Speaker of the House of Representatives of the State of Florida, various reporters and columnists for the Tampa Tribune and St. Petersburg Times, and any additional members of the vast conspiracy feared by Judge Cope.

Counsel for Respondent, 5510 W. La Salle Street, #300, Tampa, Florida 33607-1713; **Judge James R. Jorgenson**, Chair of the Judicial Qualifications Commission Hearing Panel, 3rd District Court of Appeal, 2001 S.W. 117th Ave., Miami, Florida 33175-1716; **John Beranek, Esq.**, Counsel to the Hearing Panel of the Judicial Qualifications Commission, P.O. Box 391, Tallahassee, Florida 32301; **Brooke S. Kennerly**, Executive Director of the Florida Judicial Qualifications Commission, 1110 Thomasville Road, Tallahassee, Florida 32303; **Thomas C. MacDonald, Jr., Esq.**, General Counsel to the Investigative Panel of the Judicial Qualifications Commission, 100 North Tampa Street, Suite 2100, Tampa, Florida 33602 this 3rd day of June, 2002.

By:
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